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WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

EXAMINER

THERIAULT, STEVEN B

ART UNIT	PAPER NUMBER
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2179

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/671,361	DANIELI, DAMON V.	
Examiner	Art Unit		
Steven B. Theriault	2179		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 30 October 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,4-10,12 and 15-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1, 4-10, 12 and 15-29 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. ____ .
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ . 5) Notice of Informal Patent Application
6) Other: ____ .

DETAILED ACTION

1. This action is responsive to the following communications: RCE filed 10/30/2007.
2. Claims 1, 4-10, 12 and 15-29 are pending in the case. Claims 1 and 12 are the independent claims. Claims 2, 3, 11, 13, and 14 are the cancelled claims.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2007 has been entered.

Claim Rejections - 35 USC § 103

3. **The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 1, 4-10,12 and 15-20, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerner et al. (Hereinafter Lerner) U.S. Patent No. 6192395 issued Feb. 20, 2001, in view of Curtis et al. (Hereinafter Curtis) U.S. Patent No. 6772335 filed Dec. 6, 2001.**

In regard to **Independent claim 1**, Lerner teaches a method for visually indicating a voice speaker to a listener in a context of a computing session, comprising the steps of:

- Obtaining a speaker identifier that identifies a voice speaker who is transmitting voice data (See Lerner Figure 4 and column 6, lines 7-37).
- Associating the speaker identifier with a visual indicator representing indicating the voice speakers in the computing session (See column 12, lines 1-15). Lerner teaches associating the user with the visual indicator to identify who is speaking.
- Selectively and temporarily, when the voice speaker is speaking, displaying the visual indicator and the user name to the listener to indicate the voice speaker who is speaking (See Figure 4a-c and column 13, lines 20-52). Lerner shows selectively displaying the user speaking and not speaking adjacently to one another. Lerner also teaches displaying the participants in a list, which would also have the indicators, displayed adjacent to one another. Lerner also teaches an embodiment where the user name is displayed (See column 6, lines 20-27). Lerner shows the participant windows that are highlighted along with the highlighting in the participant list window which indicates which speakers are talking. However, Lerner does not expressly state that the visual indicator and user name are adjacent to one another.

Lerner does not expressly teach:

- When displayed displaying the visual indicator and the user name adjacent to one another

Curtis also teaches a collaboration system that allows for multiple types of communications to occur between users (See Figure 1). Curtis teaches a microphone widget, video widget, and speaker and camera widgets (See Figure 3, 60, 64 and 66, etc). Curtis teaches a window that displays the widgets along with communication information from multiple users in a single window along with the application communications between the users in other windows (See figure 3). Curtis teaches the state of a window can be toggled based on the communication where the user depresses a push to talk button. The press initiates a process to visually enhance the widgets associated with the person in communication with the user. The widgets can show textual labels along with the icons (See column 10, lines 37-67 and column 11, lines 1-20). Curtis shows in figure 3, window 48, the descriptive push to talk icon adjacent to the user name when the video is displayed. The user has the control to turn off the video or to display it. The button changes colors to indicate a connected status or relationship with another user (See also column 19, lines 35-67 and column 20, lines 1-10). The temporary functions can be interpreted as the user selecting a particular microphone widget for a user and the selected user is highlighted (See column 10, lines 37-67) and then the system interrupts all other communication to allow for the user to communicate with other users (See column 11, lines 5-20 and 50-67). Further, a second process of whispering can take place between two users within the group. When a user presses the microphone widget 64 below the person instead of the widget 63 above the video pane a private conversation can occur between the two users. The video pane is highlighted to the user and the users names are displayed adjacent to one another. Curtis and Lerner teach collaboration systems and they both teach manipulating the graphical interface, through highlighting, to indicate a user that is speaking. They both

teach a process, albeit different, of displaying all of the users participating in a conversation.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Lerner and Curtis in front of them, to modify the system of Lerner to incorporate the process of displaying a user name adjacent to the visual indicator when the user presses a button to communicate. The motivation to combine Curtis with Lerner comes from the suggestion in Curtis to visually identify a user communicating with another user through visual interface elements (see column 3, lines 1-15).

With respect to **dependent claim 4**, Lerner teaches the method wherein prior to the step of displaying, further comprising the step of determining whether the listener has elected to hear voice communications from the voice speaker.

With respect to **dependent claim 5**, Lerner teaches the method wherein the step of determining comprises at least one of the steps of: (a) determining whether the listener has muted voice communications from the voice speaker (b) determining whether the voice speaker provided evidence that the voice speaker is trusted by the listener, so that voice communications from the voice speaker are allowed to be heard by the listener (See column 3, lines 1-5 and 7, lines 17-40). Lerner teaches assigning privileges to users that can speak in a session and also the process of placing a person on hold and visually identifying when the user is on hold.

With respect to **dependent claim 6**, Lerner teaches the method wherein prior to the step of displaying, further comprising the step of determining whether the listener is prohibited from hearing voice communications from the voice speaker (See column 7, lines 17-30). Lerner teaches deny privileges.

With respect to **dependent claim 7**, Lerner teaches the method wherein the step of determining comprises at least one of the steps of:

(a) determining whether the voice speaker has been muted in the computing session (See column 7, lines 25-30).

(b) Determining whether the voice speaker is restricted from voice communication as a result of one of an event occurring in the computing session and a status of the computing session (See column 7, lines 17-30). The user can be away from the keyboard and as such is restricted from voice communication.

With respect to **dependent claim 8**, Lerner teaches the method further comprising modifying the voice data as a function of a status of at least one of the voice speaker and the listener in the computing session (See column 9, lines 5-55) Lerner teaches adjusting the visual indicator to the user speaking and buffering the incoming packets to be directed to the controller for the user that is speaking and when a second person speaks the system modifies the voice to reflect in real time when the new voice input to facilitate a realistic conversation.

With respect to **dependent claim 9**, Lerner teaches the method further comprising the step of mixing the voice data from the voice speaker with voice data from another voice speaker to provide the listener with a multi-voice communication (See column 3, lines 1-30).

With respect to **dependent claim 10**, Lerner teaches a memory medium on which are stored machine instructions for carrying out the steps of Claim 1 (See column 4, lines 50-67).

In regard to **claims 12, 15-20**, claims 12, 15-20 reflect the system comprising computer readable instructions for performing the steps of method claims 1, 4-9, respectively, and are rejected along the same rationale.

With respect to **dependent claim 27**, Lerner teaches a method further comprising displaying to the listener an indicator that a player is prohibited from speaking to the listener or hearing any voice communication from the listener (See column 7, lines 15-40). An indicator will be displayed to a user that does not have access rights to join a conversation or that is denied from responding to a particular message.

6. **Claims 21-26, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerner et al. (Hereinafter Lerner) U.S. Patent No. 6192395 issued Feb. 20, 2001, in view of Curtis et**

al. (Hereinafter Curtis) U.S. Patent No. 6772335 filed Dec. 6, 2001, in further view of Blattner et al. (Hereinafter Blattner) U.S. Publication No. 20040221224 Filed Dec. 30, 2003. Please note the provisional applications 60427941, 60464106, 60488399, 60450663 have been reviewed, and the effective filing date of the Blattner reference has been determined to be Nov. 12, 2002.

With respect to **dependent claims 21 –26, 28- 29**, as indicated in the above discussion, Lerner in view of Curtis teach every limitation of claim 1 and 12.

Lerner in view of Curtis does not expressly teach a method further comprising modifying the voice data as a *function of a predefined characteristic selected by the voice speaker and wherein modifying the voice data as a function of a predefined characteristic selected by the voice speaker comprises adjusting the voice data to sound like an elf and wherein modifying the voice data as a function of a predefined characteristic selected by the voice speaker comprises adjusting the voice data to sound like a pre-selected gender and the changing the in appearance of a visual element that is controlled by the voice speaker in the computing session comprises by moving a mouth on a character controlled by the voice speaker and comprising displaying to the listener a muted speaker identifier when an undesired voice speaker is speaking and when the undesired voice speaker's voice communication has been muted with respect to the listener and displaying an indicator indicating that a participant does not have a voice communicator and displaying an indicator indicating that a participant can hear voice communications, but does not have microphone.*

Blattner teaches a process of allowing the user to define an avatar to be used during a conference or chat conversation with multiple people and the avatar can provide visual cues to the participants of the conversation based on the programmed characteristic of the owner of the avatar or a predefined operation that the avatar performs. For example, Blattner teaches the

avatar can send an automatic hello when someone says "hi" in the chat session to the owner. In other words, the Avatar has a personality much like its owner and through animation the avatar can respond visually to recipients (See Para 014-020). Blattner teaches the user decides which persona to use in responding to a sender (See Para 012), which is a predefined characteristic chosen by the user. Blattner teaches the avatar can have a recorded response, which can be any recordable sound that can be perceived by the user (See Para 0061) and can be an elf or to sound like a specific gender. Finally, Blattner teaches moving the mouth on the avatar to show a spoken voice (See Para 074) and teaches a visual indicator that shows the user is muted and cannot be spoken to (See Para 61). Blattner also allows for the user to customize the avatar to show environmental characteristics such as responding to a message with an indicator stating they cannot hear it because they don't have a headphone or that they have to speak because they don't have a microphone (See Para 016, 53-55 and 0192). Blattner, Curtis and Lerner are multi-person communication systems. They all provide visual indications to the users that reflect status of the user. They also show the ability to allow more then one user to communicate simultaneously.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Blattner, Curtis and Lerner in front of them, to modify the system of Lerner to have the user name adjacent to the widget as taught in Curtis and a recipients voice respond in a different voice other then the actual voice and to show the mouth movement of the user to provide more realistic communications between users as shown in Blattner. The motivation to combine Blattner, Curtis with Lerner comes from the suggestion in Blattner that instant messaging applications can provide visual indications to recipients of messages in a collaborative system where the indications can be programmed or controlled by the user.

Response to Arguments

Applicant's arguments with respect to claims 1, 4-10, 12 and 15-29 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the teachings of Blattner do not show an icon indicating the user does not have a microphone

The Examiner notes an oversight in putting the incorrect Blattner reference on the previous office action. However, the correct reference was cited on the 892 and mentioned in a voice conversation initiated by the client. Nonetheless the correct reference is now indicated on the rejection above. The Examiner finds support in the provisional application for the grounds of rejection above that the user can create an Icon that expresses their desire, mood, situation, etc. and the Icon can virtually be any image they desire. The Examiner argues that the user without a microphone can create an expressive avatar that displays to the other users that they do not have a microphone to contribute to the audio conversation. Curtis also teaches that the system would list the users that do not transmit audio on the window 48 but not display the microphone widget.

It is noted that any citation to specific pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006,1009, 158 USPQ 275, 277 (CCPA 1968)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Theriault whose telephone number is (571) 272-5867. The examiner can normally be reached on M, W, F 10:00AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/Steven B Theriault/
Patent Examiner
Art Unit 2179